Cir 8

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1979

No. 79-5521

MICHELLE I. THOMPSON

Appellant

vs.

MICHAEL THOMPSON

Appellee

ORIGINAL COPY

ON APPEAL FROM THE COURT OF APPEALS

OF MARYLAND

MOTION TO DISMISS

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Appellant

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OF MARYLAND

MOTION TO DISMISS

Pursuant to Rule 16(1)(c) of the Rules of the Supreme Court of the United States, Appellee moves the Court to dismiss the appeal herein for the reasons and on the grounds hereinafter set forth.

STATEMENT

This is an appeal from a judgment of the Court of Appeals of Maryland entered July 20, 1979, which disallowed the Appellant's paternity action. The facts underlying the appeal are as follows: Appellant was born on May 10, 1969. On December 1, 1971, Appellant's mother brought a paternity action against the Appellee in Anne Arundel Circuit Court. Appellee successfully asserted the two-year statute of limitation as a defense. Counsel was subsequently appointed for the Appellant, who mounted unsuccessful constitutional challenges to the statute of limitations in the Maryland Court of Special Appeals and the Maryland Court of Appeals.

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ARGUMENT

The appeal herein should be dismissed because the questions urged for reversal are insubstantial and have been clearly foreclosed by decisions of the Court, rendering further argument unnecessary. Alton Railroad v. Illinois Commerce Commission, 305 U.S. 548 (1938); Missouri Pacific Railway v. Castle, 224 U.S. 541 (1912).

This court has spoken frequently and at length in recent years on the question of the constitutional rights of illegitimates. Parham v. Hughes, 99 S.Ct. 1742, ___ U.S. ___ (1979); Lalli v. Lalli, 439 U.S. 259 (1978); Trimble v. Gordon, 430 U.S. 762 (1977). These cases make it clear that illegitimates are not a suspect class and that statutes relating to them need not be subjected to strict scrutiny. The appropriate test is a lesser one, which, as applied in Lalli, supra, involves determination of an "evident and substantial relation to the particular state interests [the] statute is designed to serve." 439 U.S. at 268. The Court of Appeals of Maryland in Thompson v. Thompson, ___ Md. ___, 404 A. 2d 269 (1979), applied these principles properly in upholding the statute of limitations.

Additionally, this Court has expressed the view that statutes of limitation go to matters of remedy and not to the destruction of fundamental rights. Chase Securities Corp. v. Donaldson, 325 U.S. 304 (1945).

Appellant raises no new issues in this appeal, and is asking the court to determine issues which it has previously disposed of in a conclusive manner.

CONCLUSION

For the foregoing reasons, Appellee moves that this appeal be dismissed.

LEGUM, COCHRAN, CHARTRAND & WYATT, P.A.

Dated: January 2, 1980

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